

SERVICE DATE – LATE RELEASE APRIL 6, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34821

NORFOLK SOUTHERN RAILWAY COMPANY—TRACKAGE RIGHTS EXEMPTION—
MERIDIAN SPEEDWAY LLC—BETWEEN MERIDIAN, MS AND SHREVEPORT, LA

STB Finance Docket No. 34822

KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY COMPANY,
AND MERIDIAN SPEEDWAY LLC—EXEMPTION FOR TRANSACTIONS WITHIN A
CORPORATE FAMILY

STB Finance Docket No. 34823

KANSAS CITY SOUTHERN RAILWAY COMPANY—TRACKAGE RIGHTS
EXEMPTION—MERIDIAN SPEEDWAY LLC

Decided: April 6, 2006

These proceedings involve a joint-venture between Kansas City Southern (KCS) and Norfolk Southern Railway Company (NSR) to share and upgrade a portion of the Meridian Speedway, a line located between Meridian, MS, and Dallas, TX.¹ KCS will contribute a 320-mile segment of the line between Meridian, MS, milepost 0.0, and Shreveport, LA, milepost V-169.85, to the venture, and NSR will acquire an equity interest and will pay for increases in line capacity to accommodate projected traffic growth. More specifically, one of KCS's subsidiaries, The Kansas City Southern Railway Company (KCSR), will contribute the line segment to Meridian Speedway LLC (MSLLC), a newly created subsidiary of KCS. MSLLC, which will remain under the control of KCS, will grant certain trackage rights to KCSR and certain trackage and haulage rights to NSR. MSLLC will also contract with KCSR for KCSR to be the operator of the line.

KCSR currently operates via trackage rights over approximately four-tenths of a mile section of track in Jackson, MS, that is controlled by Canadian National Railway Company (CN) as successor to Illinois Central Gulf Railroad Company (IC) pursuant to a trackage rights agreement dated March 26, 1986, between MidSouth Rail Corporation and IC (Jackson Trackage Rights Agreement). KCSR also currently operates over a railroad bridge over the Mississippi River at Vicksburg, MS, pursuant to a lease agreement between Vicksburg Bridge and Terminal

¹ These proceedings have not been consolidated and are being dealt with here in one decision solely for administrative convenience.

Company and The Yazoo and Mississippi Valley Railroad Company dated February 11, 1928, as amended and/or replaced from time to time (Vicksburg Bridge Lease). The transaction contemplates having both the Jackson Trackage Rights Agreement and the Vicksburg Bridge Lease assigned to MSLLC.

To obtain the Board authority necessary to implement the entire transaction, by separate verified notices of exemption filed on January 17, 2006, NSR seeks authority to acquire trackage rights in STB Finance Docket No. 34821; KCS, KCSR, and MSLLC seek an exemption for a transaction within a corporate family in STB Finance Docket No. 34822; and KCSR seeks authority to acquire trackage rights from MSLLC in STB Finance Docket No. 34823. Under the class exemption procedures, the notices would have become effective on January 24, 2006 (7 days after they were filed). However, by decision served on January 23, 2006, the effective dates of the three exemptions were stayed, at the joint request of CN, NSR, KCS, KCSR, and MSLLC, until February 23, 2006.

On February 17, 2006, NSR, KCS, KCSR, and MSLLC jointly filed a petition asking the Board to extend the stay of the effective dates. The petitioners explained that they needed additional time to prepare documents regarding the impacts of anticipated traffic growth over the line for review by the Board's Section of Environmental Analysis (SEA). The petitioners requested that the Board further stay the notices' effective dates until April 10, 2006, or until such lesser time as it may take to resolve the environmental matters. In a decision served on February 22, 2006, the Board granted the request and stayed the effective dates of the instant exemptions until April 10, 2006, to allow the environmental effects of the transaction to be properly documented and addressed before the exemptions became effective.

Consensual trackage rights agreements and intra-corporate proposals are classifications of actions that normally require no environmental review. See 49 CFR 1105.6(c)(4) and 49 CFR 1105.6(c)(2)(ii). Rather, such activities are covered by a "categorical exclusion," and, absent extraordinary circumstances, once a project is found to fit within a categorical exclusion, no further environmental review is necessary.

Prior to filing their notices of exemption, petitioners discussed the proposed transaction with SEA to explain that, in their view, the proposed transaction would have insignificant environmental impacts and further environmental review is not required. To assist the Board in determining whether to conduct a formal environmental review, SEA prepared an Environmental Notice providing a description and explanation of petitioners' proposed actions and requesting public comment on the proposed project. SEA made the Environmental Notice available for public review and comment to ensure that the affected public, including government agencies and communities, had an opportunity to raise any environmental concerns. SEA further ensured broad access by making the Environmental Notice available on the Board's website. Having received no comments on the Environmental Notice, SEA has now completed its review.

As explained in SEA's Environmental Notice and subsequent analysis, the line that is the subject of petitioners' trackage rights and intra-corporate family transaction—between Meridian, MS, and Shreveport, LA—will not incur an increase in traffic sufficient to trigger the thresholds for environmental review in the Board's environmental rules. Meeting those thresholds requires

an increase in rail traffic of at least 8 trains a day or 100% in traffic, measured in gross ton miles annually. Petitioners say that KCSR projects zero additional train movements over 5 years and that NSR expects its traffic movements to increase by an average of 3.6 trains per day over 5 years as a result of the two trackage rights actions and the intra-corporate family transaction.

Actions such as these that do not meet or exceed the thresholds typically require no environmental review. 49 CFR 1105.6(c)(2), 1105.7(e)(4) and (5). Moreover, even without the categorical exclusion from environmental review provided by Board regulations for trackage rights and intra-corporate actions, SEA has concluded that the proposed transaction would not have enough potential for significant impacts to warrant further environmental review under the National Environmental Policy Act of 1969 and the Board's environmental rules.

SEA has properly concluded that the two trackage rights actions and the intra-corporate family transaction fall within the classifications of actions that are categorically excluded from environmental review by the Board, and that formal environmental review is not warranted in this case. Also, SEA has properly concluded that the action does not require historic review under the National Historic Preservation Act of 1966, because further approval would be required to abandon any service, and there are no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. 49 CFR 1105.8(b)(2) and (3).

As noted, no comments have been received disputing SEA's analysis in the Environmental Notice or expressing any environmental concerns. Accordingly, SEA's conclusions will be adopted and no further environmental review in these proceedings is found to be warranted. The stay to provide time for environmental review, therefore, will expire under its terms on April 10, 2006.

It is ordered:

1. No additional environmental review in these proceedings is necessary.
2. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary